



Docket No. 290.0009.0101

PATENT

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Michael S. Kinch et al.) Group Art Unit: 1642
Serial No.: 09/640,952) Examiner: Natalie A. Davis
Confirmation No.: 3252)
Filed: 17 August 2000)
For: EPHA2 AS A DIAGNOSTIC TARGET FOR METASTATIC CANCER (As Amended)

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In accordance with the continuing duty of candor and good faith that is to be demonstrated before the United States Patent and Trademark Office (USPTO), enclosed are copies of thirteen documents which Applicants bring to the Examiner's attention as possibly being of interest in connection with the above-identified patent application. Consideration of each of the documents listed on the attached 1449 form(s) is respectfully requested. Pursuant to the provisions of MPEP §609, Applicants further request that a copy of the 1449 form(s), marked as being considered and initialed by the Examiner, be returned with the next Official Communication.

Sale of Antibody D7

According to information provided to Applicants' Representatives by the Assignee, the first sale of antibody D7 by the licensee under Document A, described below, occurred on or about October 15, 1998, and antibody D7 was not advertised for sale by the licensee until sometime after August 21, 1998.

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Supplemental Information Disclosure Statement

Applicant(s): Michael S. Kinch et al.

Serial No.: 09/640,952

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List of License Agreements, Material Transfer Agreements, and Transfers of Biological Material
Pursuant Thereto

Listed below license agreements and material transfer agreements were entered into prior to the filing date of priority application 60/149,259 (August 17, 1999) associated with the instant U.S. nonprovisional application. It should be understood that Document A was executed, and provision of materials to the licensee occurred pursuant thereto, prior to license agreements that have been redacted to delete identifying information are provided as follows:

Document A: License agreement pertaining to "Anti-Eck monoclonal antibody" which is the D7 antibody; this agreement was executed prior to August 17, 1998.

According to information provided to Applicants' Representatives by a named inventor, a crude preparation containing D7 antibody was provided to the licensee prior to August 17, 1998.

Document B: Material transfer agreement pertaining to B2D6 antibodies; this agreement was executed after August 17, 1998, but prior to August 17, 1999. Biological materials may have been provided to the other party for research purposes after August 17, 1998, but prior to August 17, 1999.

Document C: License agreement pertaining to B2D6 hybridoma; this agreement was executed after August 17, 1998, but prior to August 17, 1999. Biological materials may have been provided to the licensee after August 17, 1998, but prior to August 17, 1999.

Document D: License agreement pertaining to B2D6 antibodies; this agreement was executed after August 17, 1998, but prior to August 17, 1999. Biological materials may have been provided to the licensee after August 17 1998, but prior to August 17, 1999.

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**Supplemental Information Disclosure Statement**

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Applicants submit that the license agreements do not constitute sales or offers for sale of the claimed subject matter under 35 U.S.C. 102(b). See, for example, *In re John Kollar*, decided by the U.S. Court of Appeals for the Federal Circuit on April 11, 2002, Number 01-1640, copy enclosed.

Since this Supplemental Information Disclosure Statement is submitted after receipt of an Office Action in the above-identified patent application, Applicants have included the fee of \$180 under 37 CFR §§1.97(c) and 1.17(p). Please charge any additional fees or credit any overpayment to Deposit Account No. 13-4895.

When the Examiner takes up the present application, consideration of these documents is respectfully requested. The Examiner is invited to contact Applicants' Representatives at the below-listed telephone number, if they can be of any assistance during prosecution of the present application.

CERTIFICATE UNDER 37 C.F.R. 1.10:

The undersigned hereby certifies that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR §1.10 on the date indicated below and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Jacquelyn K. Tabor
JACQUELYN K. TABOR

"Express Mail" mailing label number:
EV073730822US

Date of Deposit: 30 May 2002

Respectfully submitted for

Purdue Research Foundation

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May 30, 2002
Date